PETITION

FROM

Quebec

LOWER CANADA,

WITH

EXPLANATORY REMARKS.

LONDON:

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1835.

To the Honourable the Knights, Citizens and Burgesses, the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled.

The Humble Petition of the undersigned Members elected to serve in the Assembly of Lower Canada, and of the Members forming the Minority of the Legislative Council, who partake the Opinions of the People—

SHEWETH:

THAT during the last Session of the Imperial Parliament, the Commons of Lower Canada, in the name of the People, whom they represent, approached your Honourable House, by Petition, dated from Quebec, on the first day of March, one thousand eight hundred and thirty-four, setting forth the grievances which the People of the said Province suffered, arising out of the vicious principles upon which their Political Institutions are based, aggravated by a series of arbitrary Administrations to which the Province has been subjected.

That the inquiry which was instituted before a Select Committee, appointed by your Honourable House upon Canada affairs, on the fifteenth of April, one thousand eight hundred and thirty-four, induced the People of Lower Canada to hope, that not only

would the prayer of their Petition be listened to, but that the grievances therein set forth, which your Petitioners have reason to believe were fully supported, would be immediately redressed.

That this hope, which your Petitioners cannot deem unreasonable, was still further strengthened by the retirement of His Majesty's late Secretary of State for the Colonies, the Right Honourable E. G. Stanley, and the subsequent appointment of the Right Honourable T. Spring Rice, the more especially after the repeated declarations of the Right Honourable the Secretary of State for the Colonies, that His Majesty's Government was actuated by the strongest desire to render justice to the People of this Province, by removing the various abuses under which they suffer, and affording to them security against the recurrence thereof.

That your Petitioners, however, regret to state, that not only does the said Petition of the Commons of Lower Canada to your Honourable House seem to have been totally neglected, but that new abuses have been inflicted upon the People of this Province, which, if not speedily removed, will tend to increase to an alarming degree the discontents which have so long prevailed, and will ultimately alienate the affections of the People even from the Government of England itself.

That among the additional grievances of which the People of this Province have to complain, your Petitioners would invite the attention of your Honourable House to the fact, that His Excellency

Mathew Lord Aylmer is still continued in the Government of this Province, after having been formally accused, in the aforesaid Petition, of "illegal, unjust, and unconstitutional conduct," and after having borne himself towards the Representatives of the People of Lower Canada, in a manner insulting to a body clothed with legislative functions, and destructive of the respect which should be due to His Majesty's Representative.

That the acts of the Governor-in-Chief, of which the People of this Province still have to complain, were, for the most part, enumerated in the aforesaid Petition to your Honourable House; that since that time, the vindictive and bitter feelings, together with the arbitrary and unbecoming conduct which His Excellency has displayed towards the People of this Province, have created an universal feeling of discontent towards His Excellency's Administration.

That among the just subjects of complaint against the present Administration of this Province, the system which is exhibited in the distribution of offices necessarily holds a conspicuous place; that the chief recommendation to office continues to be a display of marked and bitter animosity towards the majority of the People of this Province; that it is seldom men of French Canadian origin find their way into office under any circumstances, but when they are appointed, it is not until they have alienated themselves from the sympathies of the People, and allied themselves with the factious minority opposed to the wishes and interests of the country; and that even

the sacred character of justice has been recently polluted in its source, by the appointing to the high office of Judge of the King's Bench, for the District of Montreal, a man who was a violent and decided partisan of the Administration of the Earl of Dalhousie, and the declared enemy of the laws which he is sworn to administer; and also by the appointment of a great number of Commissioners, for the trial of small causes in different parts of the country, intentionally selected, on the eve of a General Election, from among the notorious partisans of the present Administration.

That another cause of complaint which has arisen since the aforesaid Petition of the Commons of Lower Canada, to your Honourable House, is the culpable indifference betrayed by the Governor-in-Chief on the subject of the frightful ravages committed by the Asiatic Cholera during the last summer. That a few days after the existence of the dreadful scourge in the City of Montreal was ascertained, the Corporation of the said City, in accordance with its strict line of duty, passed a series of Resolutions authorizing an application to the Governor-in-Chief for an extension of the Quarantine Regulations to the Port of Montreal; and for an aid for the purpose of forwarding the destitute Emigrants to their destination; that the answer of the Governor was more than a bare refusal—it was marked by coldness and insult; that your Petitioners are firmly of opinion that the virulence which the disease subsequently assumed in the said City of Montreal, would have been consider-

ably mitigated, had the Head of the Administration complied with the prayer of the Corporation; and that the People of the Country generally, and more especially the surviving relatives of the one thousand three hundred victims who died in Montreal, and of the thousands in the Province who have fallen victims to the disease, look upon the conduct of His Excellency as one of the principal causes of their suffering and bereavement.

That since the aforesaid Petition of the Commons of Lower Canada, your Honourable House, in whose deliberations, be it remembered, the people of this Province have no voice, have sanctioned the sale of lands belonging to this Province, to several individuals using the title of the "British North American Land Company," and thereby have taxed this Colony contrary to the most important and indisputable of the birth-rights of British subjects, which were more particularly acknowledged and confirmed to Colonies with local Legislatures by the faith and honour of the British Parliament, pledged by the Declaratory Act of 1778, the violation of which principle recognized in said Act led to the rightful and successful resistance of the former British Colonies, and to the dismemberment of the British Empire. That your Petitioners, viewing with alarm such an encroachment upon their political privileges, would fain believe that it has been made without considering their Constitutional Rights and the provisions of the said Declaratory Act; that your Petitioners, nevertheless, solemnly protest against this violation of the most sacred rights

of the People of Lower Canada, and pray for the immediate repeal of the Act passed in favour of the said Land Company. That your Petitioners have reason to believe that the said tax is now being paid into the Colonial Chest of this Province, for the disposal of the Executive, without the sanction and in defiance of the expressed will of the Commons of Lower Canada; that your Petitioners anticipate with fear, as a consequence thereof, a frightful increase of corruption in this Province; that in addition to the fears generated by this unconstitutional taxation, and the equally unconstitutional application of the said tax, your Petitioners foresee, as arising out of the peculiar powers conferred on the Company in question, the destruction of the political independence of the people, who may unfortunately become subject to its control, and who will be rendered basely subservient to the said Company.

That the continued dilapidations of the Revenues of the Province, in direct violation of the Constitution, are another source of alarm to His Majesty's Canadian subjects; that after the abandonment of the late Colonial Secretary's project to seize upon the said Revenues by suspending an Act which did no more than confirm to the Commons of Lower Canada a right previously recognized, without conferring any new privileges, His Majesty's Canadian subjects did not expect to be so soon called upon to resist similar unconstitutional encroachments and dilapidations; yet very recently the indisputable privileges of the Assembly have been again violated by the payment of

the Public Servants without the sanction or cognizance of the only body authorized to give such sanction.

That the People of the old Colonies, now the United States of North America, however much they were aggrieved by attempts at unconstitutional taxation, had much less to complain of, on the score of Executive usurpation, than the People of this Province; and the Assembly having repeatedly declared its fixed determination not to sanction that which it must ever consider a tyrannical violation of its rights, and which the People of this Province regard as a virtual dissolution of the Constitution, your Petitioners cannot answer for the consequences.

That, under these circumstances, your Petitioners claim for His Majesty's Canadian subjects the protection of your Honourable House against these and similar acts of pillage. That your Honourable House may and ought at once to ascertain, in order to bring to just punishment, those who authorized so criminal an assumption of power.

That, inasmuch as no Session of the Provincial Parliament has intervened since the date of the aforesaid Petition of the Commons of this Province to your Honourable House, your Petitioners abstain from alluding at any length to the insuperable differences and the ever widening breach between the House of Assembly and the Legislative Council of this Province—differences springing out of the very constitution of the latter body: nevertheless, your Petitioners cannot avoid reminding your Honourable

House that the aforesaid Petition contained a prayer that the Legislative Council, as at present constituted, be abolished, and that the People of this Province be empowered to elect the second branch of the Legislature in future, as the only means of producing that harmony, without which internal peace and good government cannot exist.

That as an evidence that the people at large fully participate in the opinions of the majority of the House of Assembly, your Petitioners take leave to refer your Honourable House to the result of the recent Elections in the said Province of Lower Canada, which avowedly turned upon the approval or the disapproval of the Elective principle, and which result is almost unanimously in favour of the said principle.

Wherefore, your Petitioners, expressing the sentiments of the majority of the inhabitants of Lower Canada, pray your Honourable House to comply with the prayer of the aforesaid Petition of the Commons of Lower Canada, dated on the first of March last, and also with that of the present Petition, by removing the abuses and grievances set forth therein, so that full justice be rendered to the House of Assembly and to the People whom it represents, and your Petitioners will ever pray.

Lower Canada, December, 1834.

(Signed,)

L. J. Papineau, *P. Le Tourneau,*
P. D. Debartzch, *L. G. De Tonnancour,*

J. B. Meilleur,
Amable Dionne,
P. E. Taschereau,
J. B. Fortin,
L. M. Viger,
J. Bouffard,
A. C. Taschereau,
J. B. Beaudoin,
L. T. Besserer,
Ed. Barnard,
X. Malhiot,
Pierre Amiot,
J. Deligny,
Alexis Mousseau,
V. Guillet,
R. J. Kimber,
Al. Trudel,
Pierre Bureau,
D. B. Viger,
P. A. Dorion.
E. Bedard,
H. S. Huot,
X. Tessier,
J. Blanchet,
P. C. Marquis,
J. Dessaules,
J. Leslie,
L. H. Lafontaine,
Jacob Dewitt,
J. M. Raymond,
L. R. Blanchard,
A. N. Morin,
Jos. Roy,
Robt. Nelson,
C. S. Cherrier,
J. Pickel,
C. Ov. Perrault,
E. B. O'Callaghan,
Sab. De Bleury,
J. B. Tasché,
J. B. Proulx,
Ed. Toomey,
J. Dorion,
J. Bouthillier,
J. T. Drolet,
E. E. Rodier,
C. Courteau,
C. La Rocque,
Ls. Bourdages,
J. J. Girouard,
W. H. Scott,
S. Bouc,
J. M. Rochon,
L. Lacoste,
J. N. Cardinal,
C. Archambeault,
C. H. O. Cote,
M. Hotchkiss,
Marcus Child,
F. X. Larue.

EXPLANATORY REMARKS

ON THE

FOREGOING PETITION.

THE object of the foregoing Petition is to call the attention of the House of Commons to the present unhappy condition of Lower Canada, the result of the vicious system of Government which at present exists, and has so long existed in that Colony.

During the last Session of the Imperial Parliament, the People of Canada ventured to lay their case before the several branches of the Legislature by Petition, dated 1st March; but although they have reason to believe a very clear case of the grievances under which they have so long suffered was made out before the Committee then appointed, no measure of relief had been extended to the Colony up to the close of the Session and the subsequent dismissal of the late Administration; on the contrary, new evils had arisen alarming to the People of the Colony, and which will be presently more particularly noticed. Under these circumstances, the foregoing Petition was prepared; it is signed by such of the Members as could be reached in the depth of a severe winter, before the ice had become stationary in the rivers. The signatures are sixty in number out of eighty-five Members returned to serve in the House of Assembly of the Province.

The object of the remarks which follow, is to support the prayer of the Petition by enumerating and explaining some of the principal grievances of which the People of Canada now demand redress.

The first grievance of which the People of Canada complain—a grievance which, in point of mischievousness, by far exceeds all others, which in fact is the parent of a host of complicated evils and abuses—is the vicious constitution of Legislative Council. Theoretically, that body is said to be chosen by the Crown, (31 Geo. 3, c. 31, sec. 3,) but practically it is self-elected. A very few words will explain this.

At the period of the American revolution, many of the Colonial families, who had, by their oppressive conduct while possessed of power in the old Colonies, rendered themselves obnoxious to their fellow citizens, found the arms of the Military Government of the then newly acquired Colony of Canada open to receive them. As a reward for the great losses which they represented themselves to have sustained, in consequence of their adhesion to the Government side in the struggle which they themselves had been mainly instrumental in generating, most of the offices which were created or fell vacant in the Colony were bestowed upon them, so that gradually they became a petty local aristocracy, filling up all the administrative and judicial offices. In this state was Canada (then called the Province of Quebec) found when the constitutional Act, commonly called the Quebec Act, (31 Geo. 3, c. 31,) came into operation.

This Act provided, among other things, that Ca-

nada should have a Local Legislature, consisting of two branches; an Assembly to be elected by the People, and a Legislative Council to be chosen by the Crown: besides the Legislative Council, the old Council was recognized (sec. 34) as an Executive Council, which was, and is presumed to be, a type of the Privy Council of Great Britain.

The two Councils were chosen exclusively out of the great office-holding class just described—a class necessarily endowed with interests and sympathies distinct from those of the great mass of the People. The consequence of this opposition of interests has been, that agreement never has existed, and never can exist between the two branches of the Legislature. A short description of the manner in which these bodies renew themselves will justify the statement which has been made, that practically they are self-elected.

One of the duties of the Executive Council is to advise the Governor. The Governor, on his first arrival, is presumed to be ignorant of the condition of the Colony. The Executive Council is his board of instructors. When an office becomes vacant, the Governor applies to his "Privy Council;" their own class is naturally represented as containing the only persons eligible or qualified to fill the office. From this mode of filling up all offices, the two Councils, the judiciary, and the office-holders, have become identical, not merely in point of interest, but in point of fact. The Executive Council, for instance, consists of eight members: two are Legislative Councillors also; and all are lucrative place-holders, with

the exception of two, and of these two, one enjoys the distinction of independence, only in consequence of having been dismissed from the office he did hold for malversation thereof *.

Abuses of the Legislative Council.

The Legislative Council consists of thirty-five Members, a large proportion of whom hold lucrative offices, whilst others have paid themselves for the trouble of governing ill by procuring large grants of land; three of the Judges, of whom one is Chief Justice and Speaker, the Bishop, the Sheriff of Montreal, and other office-holders, have seats for life in the Legislative Council; two of the Legislative Councillors are Executive Councillors also; and to complete the community of interest between the two bodies, the Honourable Members of one Council think it no degradation to become the servants and receive the wages of the other†. Now it is this vicious constitution of the Councils which has, in practice, produced the disastrous results of which the People of Canada have complained, (*Petitions of 1st March*, 1834,) and it is a conviction that no partial remedy can be applied, which dictated the prayer "that the Legislative Council as at present constituted be abolished, and that the People of this Province be empowered to elect the second branch of the Legislature in

* Montreal Almanac for 1834. See also Parliamentary Paper, 24th March, 1834, No. 149, (Mr. Hume mover).

† The Honourable W. Smith and C. de Lery, are Executive Councillors and Clerks of the Legislative Council; the Honourable H. W. Ryland, a Legislative Councillor, is Clerk to the Executive Council.

future as the only means of producing that harmony, without which internal peace and good government cannot exist." (Petition, ante page 10.) The several grievances which have sprung out of the vicious constitution of the second branch of the Legislature are inconceivably numerous. A few examples may be here stated:—

I. The Laws which are conceived by the People to be necessary for their common welfare are rejected by the Council. (Petition of 1827.) Such was the language of complaint in 1827: that the evil is not only unmitigated, but considerably augmented, let the following statement shew; that it will remain so, while the present Council lasts, is the firm impression of the People of Canada.

STATEMENT of the Number of Bills, which, having originated in the House of Assembly, were either rejected by the Legislative Council, or amended so as to procure their final rejection by the Assembly; exhibiting the obstructive character of the said Council.

Year.	Rejected by the Council.	Amended by the Council.	Total.
1822	8	0	8
1823	14	2	16
1824	12	5	17
1825	12	5	17
1826	19	8	27
1827	No Session.	No Session.	No Session.
1828 } 1829 }	16	8	24
1830	16	8	24
1831	11	3	14
1832	14	8	22
Total	122	47	169*

* Parliamentary Paper, 24th March, 1834, No. 149, moved for by Mr. Hume.

Of the Laws thus rejected, some were deemed by the People of vital importance, and were of provisions so wise and salutary, that it would be difficult to comprehend in what respect they displeased the official party. The subject matter of a few will be sufficient to illustrate this observation :—

1. An Act to regulate the office of Receiver-general. (The People had already been robbed by one Receiver-general, Sir J. Caldwell, and desired security for the future.)

2. Acts, without number, for the Extension of Education.

3. An Act for taking a Census of the Population.

4. An Act for establishing Local Courts.

5. An Act for the Relief of destitute Emigrants. (Afterwards obsequiously passed by order of the Colonial office!)

6. Prisoners' Council Bill.

7. Acts for re-printing the Provincial Laws in force.

8. An Act to incapacitate the Judges from sitting and voting in the Legislative and Executive Councils, and to secure the independence of the Judges.

9. An Act for building County Court-houses and Gaols.

10. An Act for vacating the seats of the Members of the Assembly accepting offices of profit, or becoming accountable for public money.

11. Numerous Dissenters' Relief Bills.

12. An Act to erect a Marine Hospital.

13. Acts for incorporating the Cities of Quebec and Montreal. (Frequently rejected; but afterwards

passed by breaking down the powers of the Corporation to those of mere street-sweepers.)

14. Acts for establishing an Agent of the Province in London.

15. A Bill for preventing the appearance of armed troops during Elections, &c. &c. &c.

The above list, taken almost at random out of upwards of 160, will fully shew the obstructive character of the Council, the justice of the People's complaints, and the utter uselessness of any remedy short of abolishing the Council or permitting the People to elect it.

II. Another grievance, complained of as arising out of the composition of the Council, is the fostering of national animosities and distinctions to which their exclusive dealing gives rise. In an address to His Majesty, dated the 1st of April, 1833, the Legislative Council pretended to be specially appointed to protect one class and not the whole body of the People. In the wording of this address, such was the indecent language made use of, that the Secretary for the Colonies felt himself called upon to express "his regret that any word had been introduced which should have the appearance of ascribing to a class of His Majesty's subjects, of one origin, views at variance with the allegiance which they owe to His Majesty." One of the many modes in which this exclusive feeling shews itself is by the influence the Council exercises in appointments to office; sons and cousins of the ruling families, without number, are recommended and received; and the Petition com-

plains " that it is seldom persons of French Canadian origin find their way into office under any circumstances; and when they are appointed, it is not until they have alienated themselves from the sympathies of the People, and have allied themselves to the factious minority opposed to the wishes and interests of the Country."

Abuses of the Judiciary.

The grievances connected with the administration of justice are severely felt, and have been repeatedly complained of by the People of Canada.

I. The Judges are appointed to hold office, not during good behaviour, but *during the pleasure of the Crown*, which practically means, during the pleasure of the official party to which they belong. No means of impeachment, in case of bad conduct, exists, and all attempts to render them independent of the Crown, and amenable, in case of ill conduct, to some tribunal have been rejected, as we have seen (*page* 18) by the Legislative Council, of which some of them are members. One case, some time since, may be mentioned here: one of the Judges (Fletcher) was accused of conduct in the partial administration of justice, (which is injustice,) which should, if proved, have incapacitated him from office; inquiry was however quashed by the Executive, and he was merely removed from the district of St. Francis to that of Gaspé. The People of St. Francis were thus quieted by the infliction of injustice upon the People of Gaspé.

II. The Judges are selected out of the official class or their partisans, and not from among those members of the Bar in whom the People have confidence. The foregoing Petition complains (*page* 6) "that even the sacred character of justice has recently been polluted in its source, by the appointing to the high office of Judge of the King's Bench, for the District of Montreal, a man who was a violent and decided partisan of the Administration of the Earl of Dalhousie, and the declared enemy of the laws he is sworn to administer." The person thus alluded to is Mr. Samuel Gale, who came to England in 1827, for the purpose of supporting and defending the notoriously-oppressive and obnoxious Administration of Lord Dalhousie. He gave evidence before the Committee which sat in 1828—evidence which was marked by bitter animosity towards the People of Canada, and towards the laws which he is now called upon to enforce. (*See Report of* 1828, *Evidence of S. Gale.*) Is such a man fit to be a Judge? Can the strong language in which the Petitioners clothe their complaints excite surprise? Of the eleven Judges *three* only are of French Canadian origin; several of them were educated in the mother country, and consequently could not be presumed to be well acquainted with the Civil Law; and several, including the above-named Mr. Gale, are of the old Colonial stock, who were the principal cause of the loss of the colonies to which they belonged.

III. The appointment of the Commissioners for the trial of small causes is conducted on the same plan (*Petition, page* 6). The Magistracy is essentially

partisan in its character; and the mere issuing of a warrant to apprehend the officer who fired upon the People on the 21st May, 1832, as a necessary step towards a Judicial inquiry, produced the immediate dismissal of the Magistrate who merely did his duty by signing the same.

IV. The powers of the Legislature are usurped by the Judges of the Court of King's Bench, and by the Executive Council, in the levying of exorbitant fees upon the Administration of Justice (*Petition of* 1*st March*, 1834), whereby injustice is perpetuated.

V. The Judges are illegally called upon to give their opinions *secretly*, on questions which may be publicly argued before them (*Petition of* 1*st March*, 1834).

VI. The Sheriffs are all creatures of the Executive Government; and one, the Sheriff of Montreal, sits in the Legislative Council. The Sheriff of Quebec is son of the Chief Justice of the Province, who is also Speaker of the Legislative Council. It is notorious that when the Crown is a party Juries are shamelessly packed. The Jury law provides that the Sheriff shall prick for Juries out of lists of the several Parishes included within a certain *arrondissement*. Yet the Jury empannelled to try the authors of the Massacre of the 21st May, was pricked from the single Parish of Lachine, inhabited almost exclusively by partisans of the Administration. So flagrant is this practice, that the Grand Jury of the Court of King's Bench for the last September term actually presented the improper method of summoning Juries, as demanding the cognizance of the Court,

and, through their recommendation, of the Provincial Legislature. Futile presentment! how is it possible to expect redress where all is partisanship and irresponsibility?

Such are some of the grievances connected with the Administration of Justice in Lower Canada. It will be easily seen that they are the result of the present Colonial system, and that they admit of remedy when once the several branches of the Legislature are brought to agree, by rendering the Council responsible to the People by means of the principle of Election.

Abuses of the Executive.

The vicious system of administration which has so long prevailed, and is still fostered in the Colony, is the parent of a host of evils of the most grievous and oppressive character.

I. When the head is unsound it is not likely that the several members will be healthy. The People attribute many of the abuses which they suffer to the fact that military men are sent to rule over them; they would therefore hail the appointment of a Civil Governor as a prelude to a better state of things. It is, unhappily, seldom that Governors are appointed for any knowledge they may be presumed to possess of the business they are about to undertake; sometimes they are appointed because they have a relation a Minister; at others, because they have gained credit in the field; occasionally, their good fortune may be traced to a less honourable origin. Unfortunately for the People of Canada, the emoluments of the

office are sufficiently large to offer a tempting bait to the connections of the English aristocracy, and the happiness of the People is held as nought. The country is unscrupulously handed over to the tender mercies of an ignorant soldier.

The education of military men renders them positively incapable of governing a free people. A military nobleman may go out with the best intentions; yet, as forbearance is not a military virtue, on the first slight he receives, the most bitter animosity is created in his breast against the People, or those who are considered to speak their voice. The People of Canada are of opinion that a Civil Governor would not be so likely to give way to such petulance; in this opinion they may be wrong, though their experience favours the supposition that they are right. With talents certainly not rising above mediocrity, the late Sir Francis Burton was popular; his manners were bland; he was accessible to all ranks; and above all, he recognized the constitutional attributes of the Assembly, which last disposition the People of Canada believe to reside in the breasts of most Englishmen educated in civil life; hence they demand a Civil Governor, with powers to conciliate.

II. The most conspicuous grievance springing out of a bad administration, intimately linked, as hath been shewn, with those who hold the Judicial and a portion of the Legislative powers, is the continued dilapidations of the revenues of the Province. (*Petition, page* 8.) The Petitions presented to the House in 1827, complained of the application of money without the consent of the Legislature. The

Petition of 1st March, 1834, states the evil to be unredressed (64th *and* 70th *Resolutions*), and recently the abuse has been carried to an extent to place the liberties of the People in the most imminent danger. A few words will explain this :—

The Declaratory Act of 18 Geo. 3, (1778,) guaranteed to all the Colonial Assemblies the full control of the proceeds of all taxes raised within their respective Provinces; this guarantee was confirmed by an Act of the 1st and 2d of the present reign. The Assembly of Lower Canada, exercising the constitutional power thus confirmed to them, are in the habit of enforcing strict economy in their annual Supply Bills. Now, as the Council and the families of its Members receive most of the salaries, of course that body has always resisted the Assembly's good intentions. To provide against this wholesome control a remedy, which should be in strict accordance with the views of the salary-receiving class, Mr. (now Lord) Stanley (when Colonial Minister) proposed to procure the repeal of the last-named Act, intending probably to violate that of 1778. When Mr. Stanley went out of office, the motion for the repeal in question was not pressed; subsequently, during Mr. Rice's continuance in office, both Acts were violated, the money-vote of the Assembly was dispensed with, and it is believed about £30,000 was, in December last, seized by Lord Aylmer, and distributed among the officials (*Petition, page* 9). Thus are the rights of the People and their Representatives trampled upon by an irresponsible Governor and Council. Englishmen acquainted with and respecting the constitutional functions of the House of Com-

mons, will perhaps have difficulty in believing this atrocious usurpation of power; a question to the Colonial Minister, or to his predecessor, will set the matter at rest.

If it be thought that some of the officials suffer hardship, it should be remembered that the Assembly are contending for a principle; that they have ever shewn liberality in the appropriation of monies; and are now ready to vote the salaries, provided that principle is recognized. Take as an example the case of the Judges. They now hold their offices *during pleasure*. The Assembly passed a Bill; granting them permanent salaries with the condition that they should hold office *during good behaviour*. The Council rejected the Bill: at the Council's door, therefore, must their distresses be laid.

III. The granting of large masses of the Public Lands to Legislative Councillors and their families is another grievous evil (*7th clause of Resolution* 84). Take the following specimens:—

	ACRES.
William B. Felton, Esq.	14,141
Children of Ditto:—	
William Locker Felton	1,000
Eliza "	1,200
Charlotte "	1,200
Fanny "	1,200
Maria "	1,200
Matilda "	1,200
Louisa "	1,200
Octavia "	1,200
	23,541*

* Sessional paper, 24th March, 1834, 149, moved for by Mr. Hume.

		FEET.
Matthew Bell, Esq.,	Water-lots, containing	11,900
„ „	ditto . . .	8,125
„ „	ditto . . .	8,125
		28,140

The said Water-lots being in a situation where some sold at 5*s*. and even more per foot: thus, these *feet* of land are more valuable than acres elsewhere.

IV. The accumulation of officers in the same persons and families gives another frightful picture of the system pursued in the Colony. (*Petition of March*, 1834.)

	£
1. Jonathan Sewell, Chief Justice . .	1,500 sterling.
„ Speaker . . .	900 „
„ for Circuits . .	50 „
2. William Smith Sewell, son of No. 1, Sheriff of Quebec	1,500 to 2,000
3. E. Sewell, son of No. 1, Missionary and Chaplain to the Bishop . .	200 or more.
4. John Sewell, son of No. 1, Usher of Black Rod	180 about.
Post Master of Quebec . . .	300 „
5. Robert Sewell*, son of No. 1, Reading Clerk to the Legislative Council .	200 „
6. Montague Sewell, son of No. 1, extra Writing Clerk of Council . . .	100†

V. The high salaries of public functionaries frequently for very trifling service are another abuse complained of. The public officer receives frequently three, four, six, and even ten times as much as the

* Since dead.

† The same state of things prevails in Upper Canada, where the Bolton family usurps about six or eight places. Nova Scotia has its Cochranes.

ordinary and average run of incomes derived from professions and from commerce; and although they may not seem large to those who compare them with the incomes of Great Britain, still they place the servants of the public at a dangerous eminence above the rest of society.

VI. The misappropriation of the funds of the Jesuits' estates, and the refusal of the Executive to render any account to the Assembly, has been complained of in every Petition from Canada, and still remains unredressed. The Jesuits held considerable estates in Canada, and occupied a very extensive College in Quebec, where they afforded a very good education on easy terms. The School has been turned into a Barrack! and the estates squandered among the officials. In 1800, the Assembly asked for certain papers connected with these estates; the Governor refused them, and told them he should consider them wanting in respect to the King*, if they renewed their demands. "The House has certainly been *wanting in respect* (says a Canadian author, writing of his country,) on several occasions since that period, if renewing its demands in the most submissive and respectful terms deserves so to be considered." The people of Canada consider the rents and immunities of these estates diverted from their lawful application, and under any circumstances they look upon the violation of the rights of the Legislature as an executive usurpation.

* It is a favourite Colonial theory, that the dignity of the Crown is damaged by any attempt to abridge the profits of the officials.

VII. The defalcation of the late Receiver-General, Mr. (now Sir John) Caldwell, is a most atrocious case. His chest had been long suspected to be deficient; but the then Governor resisted the demand of the Assembly for investigation, on the ground that the Receiver-general was the officer of the Imperial Government, and not of the Colonial Assembly. Subsequently the chest had not money enough to honour a Warrant; and a disclosure, so long resisted, became unavoidable. The plea of the Governor was now taken up by the Assembly. "If he be the servant of the Imperial Government, they must answer for his misdeeds, and must restore us the money he has robbed us of;" but no, Sir John Caldwell is still protected: he is one of the brightest ornaments of the Castle of St. Louis, is a Legislative Councillor, and is instinctively strenuous in procuring the rejection by the Council of a Bill for the security of Money in the hands of the Receiver-general." As a reward for this loyal conduct, as it is styled in the Colony, he enjoys the immense estates which were formerly his, at a rental of £2,000 a year, though they are supposed to be worth three or four times as much. Sir John is supposed to have grown rich since his "misfortune," as it is called by his class. No wonder Sir John gives capital dinners*.

VIII. The people complain generally of the refusal of the Executive to submit accounts and papers to the inspection of the House, though repeatedly demanded,

* A balance, struck in February, 1834, leaves upwards of 600,000 dollars against the late Receiver-General.

(*67th Resolution*), especially those connected with expenditure.

IX. Also of the refusal of subordinate public functionaries to appear before them (*67th Resolution*). The grounds of refusal in both cases are the same as those assigned by Lord Dalhousie, in the case of the Receiver-general Caldwell. They are officers of the Crown, and not subject to the will of the Assembly. The enormity of this plea may be conceived, by supposing a similar refusal to acknowledge the authority of the British Parliament on the part of a public officer. It would and ought to be met with instant dismissal.

X. Want of control over the Post-Office department is another source of evil, and consequently of discontent. A Bill introduced by Lord Stanley, in the early part of last Session, gave up the surplus revenue to the Colonial Legislatures. Still they have no control over the department; and the Postmaster-general of the Colony, and his deputies imitating him, refuse to answer the questions of the Assembly, on the plea set up in other cases. The postage on newspapers, in some cases 45 per cent. on the cost, is an arbitrary tax levied by the Deputy Postmaster-general for his own especial use. Its amount must be enormous, as there are about 50 Newspapers published in Canada alone.

XI. The wanton massacre of the People during an election on the 21st May, 1832, is still under investigation by the House of Assembly. Previous to this event the People of Canada considered the Agents of the British Government merely ignorant,

arbitrary, and tyrannical; they now regard them and their party as bloodthirsty and cruel. The partisan character of the Magistracy, mentioned at page 20, has recently been put beyond a doubt. In 1832, the People fired upon were those who huzzaed for the popular side. The mob was small, and it was during the day. In 1834, a mob of 1,200 (some say 1,500) paraded the streets with impunity; but then they huzzaed for "the right side." They beat those who were obnoxious to to them, put the night-watch to the rout, broke the windows of the leading People on the popular side—in short, had possession of the town. A Magistrate, when asked what they intended to do, said, "What can we do?—they are respectable People."

XII. The continuance of the present Governor, Lord Aylmer, in office (*Petition, page* 4) after he had rendered himself obnoxious to the People is the last grievance which will be noticed under this head. Even were it the opinion of the Secretary of the Colonies, that no one single act of Lord Aylmer's is sufficient to warrant his dismissal, the detestation in which his Lordship's Government is held by the People should be enough to cause his removal. That this detestation is not without foundation, let the following complaints extracted from the Petitions of 1834 and 1835 show:—

The House complains,—

1st. Of the seizure of the Provincial Funds by the Governor, without the sanction of the Assembly. (*Petition, page* 8.)

2. Of his refusal to communicate the information asked for on various occasions by the House. (*Resolution* 84, *clause* 15.)

3. Of his refusal to advance monies for sanitary purposes during a time of pestilence, though on a former occasion cheerfully indemnified by the Assembly; and of his having answered the request of the municipal authorities, though couched in respectful terms, in a tone of insult. (*Petition, page* 6.)

4. Of his zealous perpetuation of all the abuses of previous administrations. (84*th Resolution*.)

5. Of his having thanked the officers who commanded the troops on the 21st May, 1832, when the citizens were shot dead at an election.

6. Of the withholding despatches, or communicating them to the House in a mutilated state, (84th *Resolution, clause* 11.)

7. Of withholding the Royal Assent from necessary Bills.

8. Of having refused to sign a writ for the election of a representative to fill a vacancy which happened in the Assembly, and having thus disfranchised a part of the population of the Province. (*Resolution* 85.)

9. Of having refused the prayer of the Assembly to offer a reward for the discovery of an unknown soldier who stabbed a man during a disturbance on the race-course. (Report of a Committee of the Assembly, 1834.)—As if in derision of the People, a reward of £100 was immediately afterwards offered for the discovery of the supposed incendiary of a barn!

Such are among the grave objections against Lord Aylmer; added to which, his tone and bearing towards the people is such as to oppose an impenetrable barrier against all communication between the governor and the governed.

Abuses of the interference of the Imperial Parliament.

In addition to the numerous evils incidental to the general system of irresponsibility just described, the People of Canada protest against the legislative interference of the Imperial Government in matters relating entirely to the internal concerns of the Colony. Within the last few years three cases of such legislative interference have occurred of a character to create almost universal discontent in the Colony. Taking the most recent case first:—

I. The Act of last Session of the Imperial Legislature, granting a charter to a company of speculators styled the "British American Land Company," is objected to, as a violation of the Articles of Capitulation and of the Declaratory Act of 1778, and as a measure in itself repugnant to the institutions of the country, and odious to the people thereof.

Throughout North America the public lands afford a ready means of raising wherewith to supply the exigencies of the Government without inflicting any, the slightest burthen upon the people. In the United States not only are a large portion of the expenses of the States' Governments paid by land sales; but a fund is created for education by annual sales of a portion of the public lands set apart for

that purpose. By this species of indirect taxation direct taxation, and also indirect taxation of a more obvious kind, are avoided. The obnoxious Act robs the people of Canada of this resource, and compels them to find other modes of supplying the public exigencies. But this is not all: even the moderate price agreed to be paid by the Company is unlawfully disposed of.

The first instalment has been received and paid into the military chest, which is always understood to be under the control of the Metropolitan Government, instead of being paid into the civil chest, and placed at the disposal of the Legislature. Thus in two ways is the Act of 18 Geo. 3 violated; *first*, by taxation against the statute; and, *second*, by placing the proceeds of the tax out of the reach of the Local Legislature.

The animosity of the Assembly and of the People to this Act is therefore just, and not, as those interested in the Company declare, "factious" and "seditious." As a fair picture of the feeling towards this Act, take the following paragraph, extracted from a Montreal newspaper, edited by a member of the House of Assembly, and considered as the representative of the opinions of the liberal portion of the British population:—

"As this is the season that old country people generally write to their friends and relations, and invite them to emigrate to this country, it is well that they should put them on their guard against purchasing any of the public lands from the *Land Company* established in this Province, as it is most

probable that the House of Assembly will declare the Company's title to those lands *null*; and the earliest opportunity will no doubt be taken to *confiscate* the lands *in whose possession soever they may be found.* Emigrants ought, therefore, to be warned against the certain risk they run in purchasing property, the title of which is so uncertain and so liable to be disturbed.

"We hope the above WARNING will not be thrown away. It will spare much trouble and discontent hereafter."

Now, the above is not a mere idle threat of a newspaper. It is a just picture of the popular feeling. No *jus occupationis* will hereafter be recognized. No circumstances of alienation or time elapsed will prevent the Province resuming the lands whenever they may gain the power of so doing.

It was said that the Bill was smuggled through the House through the agency of an honourable member who has a direct interest in the speculation. The people of Canada regard not the manner of its passage; they object to the Act itself, and to its principles, and they pray its immediate repeal.

II. Another Act passed by the British Parliament, and obnoxious to the People in the highest degree, is the Canada Tenures Act, (6 Geo. 4). The alarm created by this Act was one of the great exciting causes of the Petitions of 1827.

This nefarious Act, for such it must be called, disturbed rights which had been in existence upwards of forty years—minors' rights, the rights of dowered women, sheriffs' titles, *hypothéques* executed upon

land—all these have been swept away by the Act of the 6th of the late King. (*Evidence of Mr. Viger before the Committee of* 1828.) It may be remarked, among other things, that the Tenures Act introduced, with the other "blessings" of the English tenure, the law of primogeniture, which is repugnant to the spirit of the Civil Law, and to the state of opinion in Canada. It is equally odious to the inhabitants of those parts of the country where soccage tenure prevails, namely, in the townships, which are chiefly peopled by Americans, where the law of primogeniture has been abolished, and is, moreover, viewed with great abhorrence.

The feeling of insecurity of property generated by this Act imperiously demands its immediate repeal, for which the people of Canada have repeatedly prayed. (*Petitions of* 1827 *and* 1834.)

III. The Canada Trade Act is also objected to, partly on the same grounds as the above.

The very oppressive nature of the whole system of Colonial rule which prevails in Canada will be apparent from what has gone before. It only remains to state that the People merely pray for—

1st. The repeal of certain Imperial Acts just specified;

2d. The recognition of the principle of non-interference, to obviate future misunderstandings;

3d. The production of unanimity between the two branches of the Legislature, by introducing the principle of election in the choice of the Council; and

4th. The appointment of a Civil Governor, with directions to adopt a conciliatory line of conduct, as recommended by the Committee of 1828.

In asking this, they merely ask to be placed on the footing of the Charter Governments of the old Colonies, reminding the Imperial Government that it was not one of these Colonies, but a Royal Colony (New York), which first set the example of disobedience to an Act of Parliament. Hence, the People of Canada "do not hesitate to ask from a Prince of the House of Brunswick, and a Reformed Parliament, all the freedom and political powers which the Princes of the House of Stuart and their Parliaments granted to the most favoured of the plantations, formed at a period when such grants must have been less favourably regarded than they would now be." (*44th Resolution.*)

RECAPITULATION.

Abuses arising out of the Constitution of the Council.

1. Vicious Constitution of the Legislative Council, and of the Executive and virtual identity of both with the Local Oligarchy. (*Resolution 9th: see ante page* 16.)
2. The rejection of useful Bills by the Legislative Council to the extent of 169 in ten years: the rejection of each Bill inflicting an abuse upon the People. Complained of in 1827—not yet redressed. (*See ante page* 17.)
3. The fostering of national animosities and distinctions by the Councils, and the creation of discord among the People. (*19th Resolution, ante page* 19.)

Abuses in the Administration of Justice.

1. The Judges hold office not during good behaviour, but during the pleasure of the Crown, that is practically, of the Local Oligarchy. Case of Judge Fletcher, where inquiry into alleged ill conduct was quashed, and the complaining People silenced by the removal of the Judge to another district. (*Ante page* 20.)
2. Selection of Judges out of the partisan class, and not out of the Members of the Bar, in whom the People have confidence. Out of eleven Judges three only French Canadians; some ignorant of the Civil Law, from the fact of their not having been educated in the Colony. Case of Judge Gale, a factious partisan. (*Ante page* 21.)
3. The Commissioners for the trial of small causes, selected on the same principle. (*Ante page* 21; *Petition, page* 6).
4. The vicious composition of the Executive Council, the Members of which are Judges of Appeal. (*Resolution* 84, *clause* 1, *ante page* 22.)
5. The Magistracy, a partisan Magistracy. A Magistrate was dismissed for the conscientious discharge of his duty when the act performed was obnoxious to the Executive. (*Ante page* 22.)
6. The Dependence of the Sheriffs—Packing of Juries. (*Ante page* 22.)

Abuses of the Executive.

1. The appointment of a Military Governor, unacquainted with the business of governing, and disposed to rule arbitrarily. (*Ante page* 23.)

2. The application of Monies without the authority of the Legislature, the only body authorized to give such sanction. (*Ante page* 24.)
3. The granting of large masses of Land to individuals connected with the Government,—23,000 acres to one family. (*Ante page* 26.)
4. The accumulation of offices in one family, and sometimes in one individual. Case of the Sewell family. (*Ante page* 27.)
5. The enormous salaries bestowed on Public Officers, twice, thrice, and even ten times the ordinary incomes derived from professions; must not be compared with incomes in the Mother Country. (*Ante page* 28.)
6. The misapplication of the Revenue of the Jesuits' Estates, which should be devoted to the education of the People. (*Ante page* 28.)
7. The defalcation of the late Receiver-general to the extent of 600,000 dollars, and the refusal of all relief. (*Ante page* 29.)
8. The refusal of Public Functionaries to account to the Assembly. (*Ante page* 29.)
9. And to appear before the Assembly and give evidence. (*Ante page* 30.)
10. The irresponsibility of the Postmaster-general of Canada to the Colonial Legislature, and the want of control over the department generally. (*Ante page* 30.)
11. The wanton firing upon the people during an election on the 21st May, 1832. (*Ante page* 30.)
12. The continuance of the present Governor in office

after having rendered himself obnoxious to the People in various ways, namely: (*Ante page* 31 :)

1. By seizing the Revenue of the Province.

2. By refusing information to the Assembly.

3. By refusing an advance of money to mitigate a pestilence, though reimbursed on a former occasion.

4. By perpetuating the abuses of former Administrations.

5. By thanking the Officers who commanded the Troops when they fired upon the People on the 21st of May, 1832, during an Election.

6. By mutilating and withholding Dispatches which should be communicated to the Assembly.

7. By withholding the Royal Assent to useful Bills.

8. By refusing a Writ to return a Member to fill up a vacancy in the Assembly.

9. By refusing to offer a reward for the apprehension of an unknown soldier who stabbed a citizen.

Abuses arising out of the Legislative interference of the Mother Country.

1. The Act to incorporate a Company of Speculators, under the title of the British American Land Company. (*Ante page* 33.)
2. The Canada Tenures Act, which rendered property insecure. (*Ante page* 35.)
3. The Canada Trade Act. (*Ante page* 36.)

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